

Dated: April 12, 2007.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD05-07-038]

RIN 1625-AA00

#### Security Zone: Queen of England Visit, Jamestown Island, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The United States Coast Guard is establishing a 500-yard security zone encompassing waters in the vicinity of Church Point on Jamestown Island, VA, for the Queen of England's visit to Jamestown Island, VA. This action is intended to restrict vessel traffic within the 500-yard security zone described herein. This security zone is necessary to protect attendees of this event from potential maritime hazards and threats, and to enhance public and maritime security.

**DATES:** This rule is effective from 8 a.m. on May 3, 2007, until 8 p.m. on May 4, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05-07-038 and are available for inspection or copying at USCG Sector Hampton Roads, 4000 Coast Guard Blvd., Portsmouth, Virginia, 23703, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LCDR Thomas Tarrants, Enforcement Branch Chief, U.S. Coast Guard Sector Hampton Roads, Virginia at (757) 483-8571.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

Pursuant to 5 U.S.C. 553(b)(B), a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM. Any delay encountered in this regulation's effective date by publishing an NPRM would be contrary to the public interest, since immediate action is needed to prevent mariners and vessels from entering waters within a 500-yard radius of 37-12.45N, 076-46.66W on Jamestown Island, VA, in

order to provide for the security of this event and its attendees.

For the same reasons good cause exists for making this regulation effective less than 30 days after **Federal Register** publication under 5 U.S.C. 553(d)(3).

#### Background and Purpose

Following terrorist attacks on the United States in September 2001, there is now a heightened awareness that vessels or persons could engage in subversive activity against targets ashore in the United States. This regulation is necessary to protect the Queen of England's visit to Jamestown Island, VA, from potential maritime threats. This temporary security zone will only be in effect from 8 a.m. on May 3, 2007, until 8 p.m. on May 4, 2007. This zone will have minimal impact on vessel transits because vessels can safely transit around the zone and they are not precluded from using any portion of the waterway except the security zone area itself. Additionally, public notifications announcing this regulation will be made via marine information broadcasts prior to the zone taking effect.

#### Discussion of Rule

The Coast Guard is establishing a temporary security zone on specified waters to provide protection to the Queen of England and other dignitaries visiting Jamestown Island. The security zone is effective from 8 a.m. on May 3, 2007, until 8 p.m. on May 4, 2007. The security zone encompasses all waters off Jamestown Island, VA, within a 500-yard radius of Church Point at 37-12.45 N, 076-46.66 W. No persons or vessels may enter or remain in the regulated area without authorization by the Captain of the Port, Hampton Roads, or his designated representative.

#### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full regulatory evaluation under the regulatory policies and procedures of DHS is unnecessary. Although this rule restricts access to the regulated area, the effect of this rule will not be significant because: (i) The COTP may authorize

access to the security zone; (ii) the security zone will be in effect for a limited duration; (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

However, this rule may affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in the described portion of the security zone between 8 a.m. on May 3, 2007, to 8 p.m. on May 4, 2007. The security zone will not have a significant impact on a substantial number of small entities because the zone does not encompass a high vessel traffic area, and will only be in place for approximately 2-days. Maritime advisories will also be issued, so the mariners can adjust their plans accordingly.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LCDR Thomas Tarrants, Enforcement Branch Chief, U.S. Coast Guard Sector Hampton Roads, Virginia at (757) 483-8571.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the U.S.

Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes,

or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation. Under figure 2-1, paragraph 34(g) of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule because it concerns an emergency situation of less than 1 week in duration.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting & recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 subpart D as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191,195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T07-038, to read as follows:

#### § 165.T07-038 Security Zone: Jamestown Island, VA.

(a) *Location.* The following area is a security zone: All waters within a 500-yard radius of Church Point at 37-12.45 N, 076-46.66 W on Jamestown Island, VA.

(b) *Definition.* As used in this section, *Captain of the Port representative* means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(c) *Regulation.* (1) In accordance with the general regulations in 165.30 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads, Virginia, or his designated representative.

(2) The operator of any vessel in the immediate vicinity of this security zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads, Virginia can be contacted at telephone number (757) 668-5555.

(4) U.S. Coast Guard vessels enforcing the security zone can be contacted on VHF-FM marine band radio, channel 13 (156.65 MHz) and channel 16 (156.8 MHz).

(d) *Enforcement period.* This regulation will be enforced from 8 a.m. to 8 p.m. on May 3, 2007, and from 8 a.m. until 8 p.m. on May 4, 2007.

(e) *Effective period.* This regulation is effective from 8 a.m. to on May 3, 2007, until 8 p.m. on May 4, 2007.

Dated: April 6, 2007.

**Patrick B. Trapp,**

*Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD05-07-015]

RIN 1625-AA00

#### Security Zone: America's 400th Celebration, Jamestown, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The United States Coast Guard is establishing a security zone encompassing waters within 2-nautical miles of Church Point at 37-12.45N, 076-46.66W, Jamestown Island, VA, for America's 400th Anniversary celebration. This action is intended to restrict vessel traffic within the security zone. This security zone is necessary to protect attendees of this event from potential maritime hazards and threats and enhance public and maritime security.

**DATES:** This rule is effective from 3 p.m. on May 11, 2007 until 10 p.m. on May 13, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05-07-015 and are available for inspection or copying at USCG Sector Hampton Roads, 4000 Coast Guard Blvd., Portsmouth, Virginia 23703, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LCDR Thomas Tarrants, Enforcement Branch Chief, U.S. Coast Guard Sector Hampton Roads, Virginia at (757) 483-8571.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On March 12, 2007, we published a notice of proposed rulemaking (NPRM) entitled "Security Zone: America's 400th Celebration, Jamestown, VA," in the **Federal Register** (72 FR 10958). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

##### Background and Purpose

Following terrorist attacks on the United States in September 2001, there

is now a heightened awareness that vessels or persons could engage in subversive activity against targets ashore in the United States. This regulation is necessary to protect attendees of America's 400th Anniversary celebration on Jamestown Island, VA, from potential maritime threats. This temporary security zone will only be in effect from 3 p.m. on May 11, 2007 until 10 p.m. on May 13th, 2007. This zone will have minimal impact on vessel transits because vessels can request authorization from the Captain of the Port (COTP) to safely transit through the zone and they are not precluded from using any portion of the waterway except the security zone area itself. Additionally, public notifications announcing this regulation will be made via marine information broadcasts prior to the zone taking effect.

##### Discussion of Comments and Changes

The Coast Guard received no comments from the public regarding the Notice of Proposed Rulemaking. As no public comments were received, no changes were made to the Notice of Proposed Rulemaking.

##### Discussion of Rule

The Coast Guard is establishing a temporary security zone on specified waters to provide protection to dignitaries visiting Jamestown Island. The security zone will be effective from 3 p.m. on May 11, 2007, until 10 p.m. on May 13, 2007. The security zone will be enforced from 3 p.m. until 10 p.m. on May 11, 2007; from 9 a.m. to 11 p.m. on May 12, 2007; and from 9 a.m. to 10 p.m. on May 13, 2007.

The security zone will encompass all waters around Jamestown Island, VA within a 2-nautical mile radius of Church Point at 37-12.45N, 076-46.66W. No persons or vessels may enter or remain in the regulated area without authorization by the Captain of the Port, Hampton Roads, or his designated representative.

##### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full regulatory evaluation under the

regulatory policies and procedures of DHS is unnecessary. Although this rulemaking restricts access to the regulated area, the effect of this rulemaking will not be significant because: (i) The COTP may authorize access to the security zone; (ii) the security zone will be in effect for a limited duration; (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

However, this rule may affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in the described portion of the security zone between 3 p.m. on May 11, 2007, to 10 p.m. on May 13, 2007. The security zone will not have a significant impact on a substantial number of small entities because the zone does not encompass a high vessel traffic area, and vessels can request authorization from the COTP to enter the zone. Maritime advisories will also be issued, so the mariners can adjust their plans accordingly.

##### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rulemaking would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LCDR Thomas Tarrants, Enforcement Branch Chief, U.S. Coast Guard Sector Hampton Roads, Virginia at (757) 483-8571.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman